



CEDAW: A TOOL FOR ACHIEVING GENDER EQUALITY

(Information Kit)



The National Alliance of Women

NAWO

National Alliance of Women (NAWO) was formed in December 1995; a membership-based organization is the single largest, post Beijing network of grassroots women's organization in the country.

NAWO network functions through its two national secretariats at New Delhi and Bangalore with the support of twelve focal point members at the state-level offices.

NAWO bring the issues of concern from the state/ regional level and provide the same input into different policy-making processes at the national level.

NAWO affirms through its work:-“The Human Rights of Women throughout the Life Cycle are an Inalienable, Integral and Indivisible part of Universal Human Rights”. Thus reiterating 'women's *rights as human rights*'

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CEDAW : A Tool for Achieving Gender Equality
(Information Kit)

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INTRODUCTION

Three decades have passed since the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW), also known as Women's Convention and the Women's Bill of Rights, was adopted by the United Nations General Assembly on 18th December 1979. India ratified the convention on 25th June 1993, although with two Declaratory Statements on Article 16 (1) & 16 (2) and one reservation on Article 29 (1).

Women's Convention is, by virtue of ratification, one of the most popular of all International treaties dealing with women's human rights. Not only does the Convention establish Universal Minimum Standards of Women's Human Rights, by which all countries must abide, it also provides a mechanism through which the implementation of state parties (signatory members) obligations under the Convention can be monitored. By demanding the practical realization of rights, the Convention promotes the Substantive model of Equality: Equality of Opportunity, Equality of Access and Equality of Results.

The Convention is an important international instrument for addressing women's rights for redistributing justice and equality. Therefore, NAWO provides an **Information Kit**, which contains the Convention, the Concluding Observation of the CEDAW committee's Periodic Review of 2000 & 2007 and the Optional Protocol to CEDAW for your reference.

Ruth Manorama
President, NAWO, India
25/03/09

The term "CEDAW" is commonly used to refer to both the *Convention on the Elimination of all forms of Discrimination Against Women* and to the Committee on the *Elimination of all Forms of Discrimination Against Women*. However, in this publication, the *Convention on the Elimination of all forms of Discrimination Against Women* has been referred to as "CEDAW" or as the "the Convention" whereas "the CEDAW committee has been referred as "the committee."

Main Features of the Women's Convention – CEDAW

- The Convention is the most comprehensive bill of rights for women in existence.
- It obligates the state to protect women from discrimination and to be accountable for violations of women's human rights.
- It is based on a principle of equality between women and men. Hence it extends the coverage of human rights to women.
- It mandates rights for women through the legislative process. This means that there is a clear avenue for drawing accountability for the guarantee of these rights.
- It recognizes that despite legal rights being granted for women in many countries, discrimination persists, and women's access to legal rights are curtailed by denial of women's rights to economic and social development. Hence it recognizes the importance of both de facto and de jure rights for women.
- It recognizes that inequality between women and men is socially constructed and hence recognizes the fact of discrimination against women. In this regard it recognizes not only current discrimination but also past discrimination and introduces the concept of corrective measures to overcome the effect of past discrimination that leaves women disadvantaged vis-a vis men.
- It bridges traditional divisions between civil and political rights and social and economic rights and makes a strong case for the indivisibility of these rights.
- It addressed the need to tackle power relationships between men and women at all levels, from family to community, market and state. In particular it discards divisions between the private and the public spheres, by recognizing violations of women in the "private sphere" i.e. within the home.
- Specifically addresses the role of culture and sex stereotyping and attitudes in shaping discrimination against women.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and

interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article I

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human

rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; *SPs*
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; *wage parity*
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; *rape laws*
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in

the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Social Equality

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Suppression of Trafficking & Exploitation of Prostitution

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Political and Public Life

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

International Representation & Participation

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Nationality

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Education

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training; *forgets*
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality; *is under*
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education

which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Employment

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Health

Article 12

- 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- 2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

women's conditions
ergonomics
exercise

clinical trials
- pharmaceuticals
- tested-men?

early childhood
research

more
than
reproductive

Economic and Social Life

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;

- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Rural Women

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Equality Before Law

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that

of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Marriage and Family Law

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

SPA
SPA

Quone?

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - (a) Within one year after the entry into force for the State concerned;
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. (amendment, status of ratification)

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions

and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Concluding Observations of the Committee on the Elimination of Discrimination Against Women: India

*Committee on the Elimination of
Discrimination against Women
Twenty-second session
17 January-4 February 2000*

India

30. The Committee considered the initial report of India (CEDAW/C/IND/1) at its 452nd, 453rd and 462nd meetings, on 24 and 31 January 2000 (CEDAW/C/SR.452, 453 and 462).

Introduction by the State party

31. The representative informed the Committee that India had ratified the Convention in July 1993 with two declarations and one reservation. She indicated that the preparation of the report had been preceded by wide-ranging consultations with a number of women's organizations. She noted that India had ratified a number of international human rights instruments and that the Indian Constitution prohibited discrimination on the basis of sex, as well as providing for affirmative action for women. India had initiated a consultative process in preparation for the Fourth World Conference on Women and was among the first countries to unreservedly accept the Beijing Platform for Action.
32. The representative indicated that among recent achievements in the implementation of the Convention had been the establishment, in March 1997, of a parliamentary committee on the empowerment of women, and the passage of constitutional amendments to reserve for women
33. 33 per cent of the seats in the Panchayati Raj institutions at the local self-government level in rural areas and municipalities in urban areas. She also stated that a bill had been introduced in late 1999 which would reserve not less than one third of the total number of seats filled by direct elections in the Lok Sabha (House of the People) and State Legislative Assemblies for women.
33. The representative described the national machinery for women's advancement coordinated by the Department of Women and Child Development, which is headed by a cabinet minister assisted by a minister of state. The National Commission for Women,

established in 1992, served as a statutory ombudsperson for women, while the Central Social Welfare Board networked with nearly 12,000 women's NGOs. Institutional mechanisms for women's advancement also existed at state level. The representative highlighted the ninth five-year plan (1997-2002), which had identified the empowerment of women as a strategy for development and mandated early finalization of a national policy on empowerment of women. She indicated that, pending the adoption of the national policy, many mechanisms identified therein had already been put in place. Recently, the Prime Minister's Office had directed that a review be made of the impact of gender mainstreaming in ministries and departments.

34. The representative indicated that progressive legislation to promote the interests of women existed at both state and central levels, and that the Government had tasked the National Council of Women to oversee the implementation of constitutional and legal safeguards for women. The review of 39 laws was underway; recommendations for amendments, including those with regard to the Immoral Traffic (Prevention) Act, had been submitted; and a draft bill on violence against women had been prepared. Lok adalats (people's courts) and parivarik mahila lok adalats (family women's courts) had been established to provide less formal systems of justice delivery. India had a tradition of public interest litigation and the Supreme Court had issued landmark judgements, including on sexual harassment at the work place and child prostitution. Several training institutes had also introduced gender sensitization training for judicial officials.
35. The representative described steps that had been taken to revise curricula and textbooks from a gender perspective, and the efforts of the Ministry of Information and Broadcasting to ensure projection of positive images of women in the media. Measures to address prostitution and trafficking in women had included a proposal to amend the Immoral Traffic (Prevention) Act to widen its scope and increase penalties; the appointment of special police officers; and the establishment of protective homes and child development and child-care centres for the children of sex workers. A plan of action to combat trafficking and commercial sexual exploitation of women and children and to integrate victims into society had been developed, and India had actively participated in the drafting of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.
36. The representative indicated that, at the Fourth World Conference on Women, India had committed itself to increasing investment in education to 6 per cent of gross domestic product (GDP), but that the target had not been achieved to date although the overall growth in literacy among women had been higher than that of men in recent years. Intensive efforts to address gender differentials in literacy and education were continuing and included the establishment of girl's learning centres to meet the needs of girls who were unable to gain access to formal education.

Still needs
a/n
no police patronage

Working Group on Women's
Conductive Sector

37. The representative informed the Committee that International Labour Organization (ILO) standards were reflected in Indian labour laws and the Government had been seeking to extend maternity benefits to all women and to provide child care for working women. Guidelines for employers with respect to sexual harassment had been established in a Supreme Court judgement and legislation reflecting those guidelines was being prepared. Efforts to recognize women's work in the informal sector and reflect it in the national census and to provide workers in the sector with labour protection had been initiated.
38. Significant improvements in women's health had been achieved in the last decade, although the high maternal mortality ratio remained a concern. The recently launched reproductive and child health programme sought to address women's health in a holistic manner. Measures to address HIV/AIDS had been introduced and legislative and other strategies to confront female infanticide and sex-selective abortion had also been adopted.
39. The representative indicated that rural women constituted almost 80 per cent of the female population and reported that the Government had introduced quotas and women-specific schemes to ensure that they received an equal share in rural development and agricultural programmes.
40. The personal laws of the major religious communities had traditionally governed marital and family relations, with the Government maintaining a policy of non-interference in such laws in the absence of a demand for change from individual religious communities. However, the Family Courts Act, providing that family matters, such as marriage and maintenance, came within the jurisdiction of the family courts, which incorporated informal procedures and counselling services, had been adopted. The representative drew attention to legislation concerning dowry-related violence and the provision of the Penal Code and Evidence Act regarding cruelty to a wife by her husband or his relatives.
41. In conclusion, the representative emphasized India's determined, concrete and sustained efforts to eliminate poverty and social disability and empower the poor and vulnerable.

Concluding Comments of the Committee

Introduction

42. The Committee welcomes the submission of the initial report of India. While noting that the report conforms to the Committee's guidelines, it does not provide adequate information relating to implementation of some articles and the general issue of violence against women. The Committee further notes that the report was submitted with some delay. The report also does not contain information on measures taken to implement the

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Beijing Platform for Action. The Committee appreciates the detailed written and oral responses of the delegation during the consideration of the report, which provided important additional information.

43. The Committee notes that the report and the oral and written responses do not provide adequate statistical data, disaggregated by sex and the States of the Union and information on the implementation of affirmative action measures for scheduled castes.
44. The Committee notes with concern that the Government does not intend to review the declarations entered to article 16 (1) and 16 (2) of the Convention.

Positive aspects

45. The Committee recognizes that India has guaranteed in its Constitution fundamental human rights that can be enforced by an application to the Supreme Court. The Committee commends in particular the recognition of a fundamental right to gender equality and non-discrimination and a specific enabling provision on affirmative action in the Constitution.
46. The Committee appreciates the contribution made by the Supreme Court of India in developing the concept of social action litigation and a jurisprudence integrating the Convention into domestic law by interpreting Constitutional provisions on gender equality and non-discrimination.
47. The Committee commends the introduction of a range of policies and programmes by the Governments of India over the years to improve the situation of women. It notes with appreciation that those programmes have contributed to some extent to improving the quality of social indicators for women in various States of the Union. The Committee welcomes the proposal to formulate a new gender empowerment policy and the directives sent from the Prime Minister's office to mainstream gender issues and a rights approach to development at the national level.
48. The Committee commends the Government of India for establishing the National Commission for Women and state commissions for women with responsibility for developing action plans on gender and proposals for law reform.
49. The Committee commends the Government for introducing affirmative action measures that have enabled 33 per cent of seats in local government bodies to be reserved for women. It welcomes the proposed bill to reserve 33 per cent seats in state and national assemblies for women, and the assurance in the oral presentations that 30 to 40 per cent coverage will be provided for women in programmes that give access to credit.
50. The Committee commends the Government for introducing legislation that has banned sex-selective abortions. It welcomes the amendments to the law on nationality, which confer equal rights on men and women.

Factors and difficulties affecting the implementation of the Convention

51. The Committee notes that India has a very large and mainly rural population living in absolute poverty and that the feminization of poverty and growing income disparities prevent the benefits of economic development being transferred to women.
52. The Committee considers that widespread poverty, such social practices as the caste system and son preference, as reflected in a high incidence of violence against women, significant gender disparities and an adverse sex ratio, present major obstacles to the implementation of the Convention.
53. The Committee notes that the existence of regional disparities is an impediment to the effective implementation of the Convention.

Principal areas of concern and recommendations

54. The Committee notes that the Convention and the Beijing Platform for Action have not been integrated into policy planning and programmes. While there have been several national plans in the pre and post-Beijing period, the Committee notes that these adopt a welfare approach towards women.
55. The Committee recommends that the proposed gender empowerment policy integrate the Convention and the Beijing Platform for Action and a rights-based approach.
56. The Committee considers that inadequate allocation of resources for women's development in the social sector and inadequate implementation of laws are serious impediments to the realization of women's human rights in India.
57. The Committee urges the allocation of sufficient and targeted resources for women's development in the social sector, as well as full implementation of relevant laws.
58. The Committee notes that there are many gaps in the legislative framework. The Committee considers that there is an urgent need to introduce comprehensive legislative reform to promote equality and the human rights of women.
59. The Committee recommends that proposals of the National Commission of Women on law reform be used in preparing new legislation and that the Commission be entrusted with the task of developing working papers on legal reform in critical areas, within a time-frame.
60. The Committee notes that steps have not been taken to reform the personal laws of different religious and ethnic groups, in consultation with them, so as to conform with the Convention. The Committee is concerned that the Government's policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women.

61. The Committee urges the Government to withdraw its declaration to article 16 (1) of the Convention and to work with and support women's groups as members of the community in reviewing and reforming these personal laws. The Committee also calls upon the Government to follow the directive principles in the Constitution and Supreme Court decisions and enact a uniform civil code which different ethnic and religious groups may adopt.
62. The Committee is concerned that India has not yet established a comprehensive and compulsory system of registration of births and marriages. The Committee notes that inability to prove those important events by documentation prevents effective implementation of laws that protect girls from sexual exploitation and trafficking, child labour and forced or early marriage. The Committee is also concerned that failure to register marriages may also prejudice the inheritance rights of women.
63. The Committee calls upon the Government to provide adequate resources and establish a system of compulsory registration of births and monitor implementation in cooperation with women's groups and local bodies. It urges the Government to withdraw the declaration to article 16 (2) of the Convention.
64. The Committee is concerned that the fundamental right to education under the Constitution recognized by the Supreme Court has not been realized by providing girls with access to primary and secondary education. It notes that budgetary allocation for education is still far below India's commitment with regard to the Beijing Platform for Action.
65. The Committee urges the Government to take affirmative action, set a time-frame and provide adequate resources for primary and secondary education so as to give girls equal access to education and eradicate adult illiteracy among women. It calls upon the Government to make primary and secondary education compulsory by introducing and enforcing relevant regulations.
66. The Committee is concerned that the fundamental rights recognized in the Constitution can be enforced only against state actors and in the event of inaction on the part of the state. It also notes that the private sector, where a great number of women are employed, which is expanding in a period of transition to market economic policies, is not covered by Constitutional standards.
67. The Committee recommends that a sex discrimination act be introduced to make the standards of the Convention and the Constitution applicable to non-state action and inaction.
68. The Committee is concerned that there is a high incidence of gender-based violence against women, which takes even more extreme forms because of customary practices, such as dowry, sati and the devadasi system. Discrimination against women who belong

to particular castes or ethnic or religious groups is also manifest in extreme forms of physical and sexual violence and harassment.

69. The Committee urges the Government to implement existing legislation prohibiting such practices as dowry, devadasi and caste-based discrimination. It calls upon the Government to strengthen law enforcement and introduce reforms proposed by the National Commission on Women and women activists in regard to the law on rape, sexual harassment and domestic violence.
70. The Committee recommends that a national plan of action be developed to address the issue of gender-based violence in a holistic manner, in line with the Committee's general recommendations 19 and 24. It calls upon the Government to provide statistics and information on violence against women in its next report.
71. The Committee is concerned that women are exposed to the risk of high levels of violence, rape, sexual harassment, humiliation and torture in areas where there are armed insurrections.
72. The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Provisions Act, in consultation with the Human Rights Commission of India, the National Commission of Women and civil society, so that special powers given to the security forces do not prevent the investigation and prosecution of acts of violence against women in conflict areas and during detention and arrest. The Committee recommends that women be given an opportunity to make their contribution to peaceful conflict resolution.
73. The Committee recommends the introduction of gender sensitization and human rights programmes for the police, the security forces and medical professionals, in addition to programmes already undertaken.
74. The Committee is concerned with the continuing discrimination, including violence, suffered by women of the Dalit community, despite the passage of the Scheduled Castes and Scheduled Tribes (prevention of atrocities) Act of 1989.
75. The Committee urges the Government to enforce laws preventing discrimination against Dalit women and prohibiting the devadasi system. It urges the Government to introduce affirmative action programmes in such areas as education, employment and health so as to provide life chances to Dalit women and girls and create an environment conducive to their progress. The Committee calls upon the Government to set a time-frame for those interventions and provide information on the progress made in the next report.
76. The Committee is concerned that women and girls are exploited in prostitution and inter-state and cross-border trafficking. It is also concerned that those women are

exposed to HIV/AIDS and health risks and that existing legislation encourages mandatory testing and isolation.

77. The Committee calls upon the Government to review existing legislation on trafficking and forced prostitution and to strengthen law enforcement. It recommends the development of bilateral and inter-state controls and reintegration and advocacy programmes to prevent the exploitation of women and girls in forced prostitution and trafficking.
78. The Committee notes with concern that maternal mortality rates and infant mortality rates are among the highest in the world. It also notes the adverse sex ratio and the incidence of sex-selective abortions despite the law banning that practice. It notes that family planning is only targeted at women.
79. The Committee recommends the adoption of a holistic approach to women's health throughout the life cycle in the country's health programme. It urges the Government to allocate resources from a "women's right to health" perspective, following the guidelines of the Committee's general recommendation 24. The Committee calls upon the Government to elicit the support of medical associations in enforcing professional ethics and preventing sex-selective abortions. The Committee also recommends that the Government obtain the support of the medical profession in creating awareness of the urgent need to eliminate practices associated with son preference.
80. The Committee is concerned about the low participation of qualified women in the administration and the judiciary, including family courts and lok adalats or conciliation tribunals.
81. The Committee urges the Government to take affirmative action to increase women's participation in the judiciary and lok adalats, and provide sex-disaggregated data in its next report.
82. The Committee is concerned with significant disparities in economic activity rates for men and women. It is concerned that the practice of debt bondage and the denial of inheritance rights in land result in gross exploitation of women's labour and their impoverishment.
83. The Committee requests the Government to enforce laws on bonded labour and provide women with self-employment opportunities and minimum wages in home-based production and the non-formal sector. It calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit.
84. The Committee is concerned that the National Commission on Women has no power to enforce its proposals for law reform or intervene to prevent discrimination in the private or public sector. It notes that the National Commission and state commissions are not supported by adequate financial and other resources. It also notes that the

National Commission on Women is not as well resourced or as empowered as the Human Rights Commission of India, and that it has no formal link with the state women's commissions.

85. The Committee recommends that NGOs be represented on the National Commission of Women. The Commission's powers should be as wide as those of the Human Rights Commission and include a complaints procedure. The Committee recommends that state commissions be similarly strengthened and linked with the National Commission.
86. The Committee is concerned that, despite the willingness of the Government to work with NGOs and women's groups, women activists and human rights defenders are exposed to violence and harassment in the communities in which they work.
87. The Committee urges the Government to strictly enforce the law and protect women activists and human rights defenders from acts of violence and harassment.
88. The Committee encourages India to deposit its acceptance to the amendment to article 20, paragraph 1, of the Convention, and to sign and ratify the Optional Protocol to the Convention as soon as possible.
89. The Committee requests that the Government responds in its next periodic report to the specific issues raised in its concluding comments.
90. The Committee encourages the wide dissemination in India of the present concluding comments in order to make the people, civil society and Government sectors aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as further steps that are required in that regard. It also requests the Government to disseminate widely, in all local languages, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and the Platform for Action.

Concluding Observations of the Committee on the Elimination of Discrimination Against Women: India

*Committee on the Elimination of
Discrimination Against Women
Thirty-seventh session
15 January-2 February 2007*

INDIA

1. The Committee considered the combined second and third periodic reports of India (CEDAW/C/IND/2-3) at its 761st and 762nd meetings, on 18 January 2007 (CEDAW/C/SR.761 and 762).

Introduction by the State party

2. The Committee expresses its appreciation to the State party for its combined second and third periodic reports, while regretting that it was overdue, did not fully comply with the Committee's guidelines for preparation of reports or refer to the Committee's general recommendations and did not provide the information requested by the Committee on the communal violence in Gujarat. The Committee commends the State party for the written replies to the list of issues and questions raised by the pre-session working group, as well as for the additional written information provided during the consideration of the report.
3. The Committee commends the State party on its delegation, headed by the Secretary of the Ministry of Women and Child Development, which included the Solicitor General and representatives of other ministries with responsibility for implementation of the Convention. It expresses its appreciation for the frank and constructive dialogue held between the delegation and the members of the Committee, which provided further insights into the real situation of women in India.

Positive aspects

4. The Committee commends the State party on its (a) National Policy on the Empowerment of Women, 2001, which, among other things, commits to ensure that all marriages are registered by 2010; (b) Women Component Plan in the national budget, where 30 per cent of planned development expenditure in all sectors is to be spent on women; (c)

National Policy on Persons with Disabilities, 2005; and (d) National Rural Employment Guarantee Act, 2005.

5. The Committee congratulates the State party on the enactment of the Protection of Women from Domestic Violence Act, 2005, and for amendments to the Hindu Succession Act and the Indian Divorce Act.
6. The Committee commends the State party for its achievements in increasing enrolment in primary education through various programmes, such as the Sarva Shiksha Abhiyan programme.

Principal areas of concern and recommendations

Principal areas of concern and recommendations

7. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding comments to all relevant ministries and to Parliament so as to ensure their full implementation.
8. The Committee is concerned that the State party has not taken adequate steps to implement the recommendations in regard to some concerns raised in the Committee's previous concluding comments adopted in 2000. In particular, the Committee finds that its recommendations in paragraphs 67 (to introduce a sex discrimination act in order to make the standards of the Convention applicable to non-State action and inaction), 70 (to develop a national plan of action to address the issue of gender-based violence in a holistic manner), 75 (to enforce laws preventing discrimination against Dalit women) and 81 (to take affirmative action to increase women's participation in the judiciary) have been insufficiently addressed. The Committee is also concerned that it has not been provided with any information on the report of the committee established to review the Armed Forces Special Powers Act in response to its previous concluding comments.
9. The Committee reiterates the concerns and recommendations in the concluding comments adopted in 2000 and urges the State party to proceed without delay with their implementation. The Committee requests the State party to provide information on the steps being taken to abolish or reform the Armed Forces Special Powers Act and to ensure that investigation and prosecution of acts of violence against women by the military in disturbed areas and during detention or arrest is not impeded.

10. The Committee is concerned by the State party's reluctance to review its policy of non-interference in the personal laws of communities without their initiative and consent and to withdraw its reservations to articles 5 (a) and 16 (1) of the Convention, which stand in contradiction not only to the overall spirit and aim of the Convention but also to the State party's existing constitutional guarantees of equality and non-discrimination.
11. The Committee urges the State party to review its reservations to articles 5 (a) and 16 (1) with a view to withdrawing them, to proactively initiate and encourage debate within the relevant communities on gender equality and the human rights of women and, in particular, work with and support women's groups as members of these communities so as to (a) modify social and cultural patterns of conduct to achieve elimination of prejudices and practices based on stereotyped roles for men and women and (b) review and reform personal laws of different ethnic and religious groups to ensure *de jure* gender equality and compliance with the Convention.
12. The Committee is concerned that while *de jure* equality for women has been realized in many spheres, there remain many impediments to the realization of *de facto* equality.
13. The Committee recommends that the State party establish viable strategies to overcome the impediments to the practical realization of women's rights. It calls upon the State party to not only carry out gender-sensitivity training and capacity-building for various stakeholders, but to also take proactive steps to remove structural barriers to women's equality.
14. The Committee regrets that the report does not provide sufficient statistical data, disaggregated by sex, caste, minority status and ethnicity, on the practical realization of equality between women and men in all areas covered by the Convention and does not provide information on the impact of, and results achieved by, various legal and policy measures described in the report.
15. The Committee requests the State party to set benchmarks and to include adequate, appropriate and comparative statistical data and analysis, disaggregated by sex, caste, minority status and ethnicity, in its next report so as to provide a full picture of the implementation of all the provisions of the Convention and trends over time in the practical realization of equality between women and men. In particular, it calls upon the State party to review and monitor the fulfilment of the provisions of the Convention in respect of scheduled caste, scheduled tribe, backward class and minority women in all sectors. It also recommends that the State party regularly conduct impact assessments of its legislative reforms, policies and programmes to ensure that measures taken lead to the desired goals and that it inform the Committee about the results of these assessments in its next periodic report.
16. Noting that the implementation of legislative and policy initiatives taken by the central Government is often left to the states and union territories, and that states and union

territories have jurisdiction over certain areas covered in the Convention, the Committee is concerned that there are inadequate structures, mechanisms and actions being taken to ensure effective coordination and consistent application of the Convention in all states and union territories.

17. The Committee recommends that the State party promote and guarantee the consistent implementation of the Convention throughout the country, including through increased attention in consultative forums and other mechanisms of control and partnership between the central Government and state and union territory governments. In this respect, the Committee recommends that the State party create formal links between the National Commission for Women and the various State Commissions for Women. It calls upon the State party to consider using the powers under article 253 of the Constitution to establish without delay standards and coordination and monitoring mechanisms to ensure the effective harmonization and implementation of gender equality programmes and policies, as well as enforcement of legislation on women's rights, at the central, state and union territory levels.
18. While noting that poor women are entitled to receive free legal aid under the Legal Services Authority Act and that the National Legal Service Authority aims to enhance legal literacy for women and provide access to justice, the Committee is concerned about the quality and scope of the free legal services provided and the access of women in rural and tribal areas to such services.
19. The Committee urges the State party to provide free legal services to poor and marginalized women in rural and tribal areas in addition to urban areas and to monitor the quality and impact of such services in regard to ensuring women's access to justice. It requests the State party to provide information about access of women, including scheduled caste, scheduled tribe, backward class and minority women, to free legal services and the scope and effectiveness of such services in its next periodic report.
20. The Committee continues to be concerned about the absence of a comprehensive plan to address all forms of violence against women. While appreciating the enactment of the Domestic Violence Act, 2005, the Committee is concerned that the various states and union territories have not put into place mechanisms to effectively enforce this Act.
21. The Committee calls upon the State party to develop, in consultation with women's groups, a coordinated and comprehensive plan to combat all forms of violence against women taking a life cycle approach. It urges the State party to take steps in partnership with states and union territories to fully and consistently implement and enforce the Domestic Violence Act and to ensure that all women victims of domestic violence, including scheduled caste, scheduled tribe, backward class and minority women, are able to benefit from the legislative framework and support systems in place and that perpetrators are effectively prosecuted under the Penal Code and adequately punished.

It recommends that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women, including domestic violence. It requests that adequate statistics on all forms of violence against women be collected in a consistent manner. In particular, it requests the State party to provide information, disaggregated by caste, minority status and ethnicity, in its next periodic report, on the number of cases of domestic violence reported to the police and other relevant authorities, the number of protection and other orders granted under the Domestic Violence Act and the number of convictions of perpetrators of domestic violence under the Penal Code

22. While noting that consultations are under way to amend relevant legislation relating to rape, the Committee is concerned about the narrow definition of rape in the current Penal Code and its failure to criminalize marital rape and other forms of sexual assault, including child sexual abuse.
23. The Committee urges the State party to widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception for marital rape from the definition of rape. It also calls upon the State party to criminalize all other forms of sexual abuse, including child sexual abuse. It recommends that the State party consult widely with women's groups in its process of reform of laws and procedures relating to rape and sexual abuse.
24. The Committee is concerned that the proposed Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, does not include sexual and gender-based crimes against women perpetrated during communal violence or create a system of reparations for victims of such crimes, as these elements are not covered effectively by the Indian Penal Code or other relevant legislation. In addition, the Committee remains concerned that this Bill does not adequately address abuse of power by State officials in failing to take action or being complicit in communal violence.
25. The Committee welcomes the State party's statement that recommendations from this Committee will be considered for inclusion in the proposed Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, and recommends the incorporation into the Bill of: sexual and gender-based crimes, including mass crimes against women perpetrated during communal violence; a comprehensive system of reparations for victims of such crimes; and gender-sensitive victim-centred procedural and evidentiary rules. The Committee further recommends that inaction or complicity of State officials in communal violence be urgently addressed under this legislation.
26. In addition to previously expressed concerns about customary practices, such as dowry, sati and the devadasi system, the Committee is concerned about the practice of witch-hunting which constitutes an extreme form of violence against women.

27. The Committee recommends that the State party adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. It recommends that such measures be based on an analysis of its causes, including control over land. The Committee calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women's human rights.
28. The Committee is concerned about the ongoing atrocities committed against Dalit women and the culture of impunity for perpetrators of such atrocities. The Committee is concerned that, despite a law banning manual scavenging, this degrading practice continues with grave implications for the dignity and health of the Dalit women who are engaged in this activity.
29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It calls upon the State party to increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.
30. While appreciating the important advances made with respect to women's education, the Committee is concerned that the fundamental right to education guaranteed in 2002 by a Constitutional amendment, has not been made operational, despite the central Government's circulation of a model bill to states and union territories for consideration.
31. The Committee calls upon the State party to take the lead, as it has done with regard to other educational schemes, including by considering using its powers under article 253 of the Constitution, to enable the passing of legislation to operationalize the fundamental Constitutional right to education. It calls upon the State party to set a time frame for speedy enactment of such legislation and to allocate required resources for the same in its eleventh fiveyear plan, which is currently being considered.
32. While appreciating the additional data provided by the State party during its dialogue with the Committee, which indicates improvements in enrolment rates of women in primary education, and while commending the State party's future plans of focusing efforts on education of marginalized sections of the population, the Committee is concerned about the continuing disparities in the educational status of scheduled caste,

scheduled tribe and Muslim women and the limited access of these groups of women to higher education. It is also concerned about the educational performance disparities among regions and states, the continuing gap in literacy rates between men and women and the lack of information on the budgetary allocation to adult literacy programmes.

33. The Committee recommends that the State party provide, in its next periodic report, comparable data disaggregated by sex, caste, minority status and ethnicity, on the enrolment and retention rates of girls and women at all levels of education, and trends over time. Given the particularly disadvantaged situation of Muslim women and girls, the Committee requests the State party to provide information in its next periodic report about the action taken on the recommendations of the Sachar Committee with regard to the education of Muslim women and girls. It urges the State party to increase efforts to enable scheduled caste, scheduled tribe and Muslim women to access higher education. The Committee calls upon the State party to strengthen its efforts, at the national, state and union territory levels, to close the gap in literacy rates between men and women, establish benchmarks in this regard and create mechanisms to monitor the achievement of such benchmarks. It also urges the State party to provide, in its next periodic report, information on the budgetary allocation to adult education programmes and the impact, and trends over time, of such programmes. Moreover, it calls upon the State party to meet its commitment of allocating 6 per cent of its gross domestic product to education in its eleventh five-year plan.
34. While welcoming the State party's efforts to eliminate gender-based stereotypes through the review and revision of textbooks at the national level, the Committee is concerned that such review and revision has not taken place at the state level in most states. The Committee is also concerned that teachers in schools are not gender-sensitized, to the detriment of female students.
35. The Committee calls upon the State party to initiate and monitor the reform of textbooks at the state level to eliminate all gender-based stereotypes and to strengthen its efforts, at the national, state and union territory levels, to combat the widespread acceptance of stereotypical roles of men and women. It recommends that gender issues and sensitivity training be made an integral and substantive component of all teacher training.
36. While appreciating the enactment of the National Rural Employment Guarantee Act, 2005, and the Government-supported scheme of women's self-help groups that provide women access to microcredit, the Committee is concerned that these initiatives may not benefit most poor and marginalized women and that the objective of poverty alleviation of self-help groups may not have the desired impact on individual women. The Committee is further concerned by the absence of mechanisms to regulate financial institutions and protect the interests of poor women.
37. The Committee calls upon the State party to ensure that rural women benefit de facto from the National Rural Employment Guarantee Act, 2005. It requests the State party to

provide data disaggregated by sex, caste, minority status and ethnicity of the beneficiaries under this Act. The Committee recommends that the State party take proactive measures to bring financial institutions on board with the agenda of development and empowerment of women through issuance of microcredit. It urges the State party to establish, after consultation with women's groups, appropriate mechanisms to regulate the functioning of microcredit finance institutions that protect interests of poor women. The Committee also urges the State party to establish programmes, with goals and timelines, to issue credit to poor women who are not able to participate in the self-help groups and do not otherwise have access to credit.

38. The Committee is concerned about the continuing deterioration in the ratio of females to males despite the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act, as amended in 2003. The Committee is further concerned that this Act may result in criminalization of women who are pressured into seeking sex-selective abortions.
39. The Committee calls upon the State party to ensure that adequate mechanisms and procedures for effective implementation and monitoring of the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act be established, including safeguards to prevent criminalization of women who are pressurized into seeking sex-selective abortions.
40. The Committee continues to be concerned about the status of women's health, including the maternal mortality rate in rural areas, which is among the highest in the world; the high prevalence of infectious diseases, especially food and waterborne diseases; malnutrition; anaemia; unsafe abortions; HIV infections; and inadequacy of services relating to obstetrics and family planning. While noting the programmes outlined in the report to improve women's access to health care and to decrease maternal mortality, the Committee is concerned that it has not been provided information about the impact of such programmes and measures. It is also concerned that the State party lacks reliable data on women's health status, including on pregnancy and non-pregnancy-related morbidity and mortality and HIV infections, owing to which it is unable to establish benchmarks and monitor progress. In addition, the Committee is concerned that the privatization of health services has an adverse impact on women's capacity to access such services.
41. The Committee urges the State party to pay increased attention to female health throughout the life cycle, including in key areas of pregnancy and non-pregnancy-related morbidity and mortality, in light of general recommendations 24 and 25. It calls upon the State party to strengthen food security, primary health care and adequate sanitation, especially in rural areas; establish mechanisms to monitor women's access to health care and health delivery systems; and increase the allocation of resources to

health care. The Committee urges the State party to prioritize decreasing maternal mortality rates by establishing adequate obstetric delivery services and ensuring women access to health services, including safe abortion and gender-sensitive comprehensive contraceptive services. It recommends that the State party provide detailed information in its next periodic report about the impact, and trends over time, of programmes to improve women's access to health care and decrease maternal mortality. It calls upon the State party to balance the roles of public and private health providers in order to maximize resources and the reach of health services. It calls upon the State party to monitor the privatization of health care and its impact on the health of poor women and provide such information in its next periodic report.

42. While appreciating the reservation of one third of seats in local government bodies for women through the use of temporary special measures, the Committee is concerned about the continuing low representation of women in Parliament and state legislatures and in government service. The Committee notes with concern the low numbers of women judges in the high courts and the total absence of women judges in the Supreme Court.
43. The Committee calls upon the State party to speed up its efforts to forge consensus on the constitutional amendment reserving one third of the seats in Parliament and state legislatures for women and undertake awareness-raising about the importance of women's participation in decision-making for society as a whole. The Committee also calls upon the State party to take sustained measures, including temporary special measures contemplated by the tenth five-year plan, to increase the number of women in government service, including in higher political, administrative and judicial posts, and to establish concrete goals and timetables. The Committee invites the State party to provide information in its next periodic report about the number and ranking of women in government service and the impact, and trends over time, of measures taken to increase the representation of women in public and political life.
44. The Committee is concerned that 93 per cent of the workforce that is in the unorganized sector is facing job insecurity and unfavourable conditions of work while the Unorganized Sector Workers Social Security Bill (2003) is pending. It is also concerned about the persistence of the wage gap between women and men. In addition, it is concerned about the increase in the population of poor urban women engaged in unskilled labour with poor work conditions and lack of access to basic amenities and health care.
45. The Committee recommends the speedy enactment of the Unorganized Sector Workers Social Security Bill. It also recommends that the State party take proactive measures to monitor and close the wage gap between women and men. The Committee urges the State party to pay specific attention, and adopt a comprehensive approach, to address the problems of poor women in the urban areas.

46. The Committee expresses grave concern about the displacement of tribal women owing to the implementation of megaprojects and the influence of global economic trends. While the Committee appreciates the need for economic growth, it is concerned that the human rights of vulnerable groups such as tribal populations may be adversely affected by large-scale economic projects.
47. The Committee urges the State party to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property.
48. The Committee is concerned by the State party's assertion that it is making efforts to eradicate child labour only in certain occupations classified as "hazardous" by the Child Labour Technical Advisory Committee. In particular, the Committee is concerned that the employment of children — the majority of whom are girls — as domestic help in private homes where children are exposed to all forms of abuse, including sexual abuse, is not being targeted.
49. The Committee recommends the establishment of mechanisms to monitor child labour and the elimination of child labour in compliance with international obligations. It calls upon the State party to study the abuse of children, particularly girl children, employed as domestic help, enforce the Child Labour (Prohibition and Regulation) Act, 1986, for their benefit, and devise strategies for their rehabilitation, including their inclusion in the formal educational system.
50. The Committee is concerned that the State party has not enacted any laws or regulations relating to the status of asylum-seekers and refugees, which adversely impacts women refugees and asylum-seekers.
51. The Committee urges the State party to adopt laws and regulations relating to the status of asylum-seekers and refugees in India, in line with international standards, in order to ensure protection also for asylum-seeking and refugee women and their children. It recommends that the State party consider accession to international instruments to address the situation of refugees and stateless persons, including the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. It recommends that the State party fully integrate a gender-sensitive approach throughout the process of granting asylum/refugee status.
52. While noting that the State party has allocated 10 per cent of the Central Plan Gross Budget for the benefit of the North-eastern Region and Sikkim, the Committee has no way of assessing whether women from the North-east and Sikkim are realizing proportional benefits of budgetary allocation.

53. The Committee requests the State party to provide information in its next periodic report on the percentage of this budgetary allocation that is being used for the benefit of women and the impact of any such measures on enhancing the equality and well-being of women of the North-east and Sikkim.
54. The Committee is concerned that the civil Special Marriage Act fails to ensure equality for women in marriage and its dissolution by not giving women equal rights to property accumulated during marriage.
55. The Committee recommends that the State party amend the Special Marriage Act, in the light of article 16 of the Convention and the Committee's general recommendation 21 on equality in marriage and family relations, to give women equal rights to property accumulated during the marriage.
56. The Committee is concerned about the State party's assertion that the social acceptability of early marriages has negated the implementation of the Child Marriage Restraint Act. In addition, it is concerned that this Act penalizes the offender but does not render the marriage void, purportedly to avoid illegitimacy of any offspring of such union, which stands in contradiction to the purpose of the Act and is a violation of the rights of the married child.
57. The Committee urges the State party to take proactive measures to effectively implement the Child Marriage Restraint Act with a view to eradicating child marriages. It recommends that the State party take comprehensive, effective and stringent measures aimed at deterrence of those engaged in child marriages, the elimination of such practices and the protection of the human rights of the girl child.
58. While appreciating that some states have enacted laws to make the registration of marriages compulsory and that the National Commission of Women is in the process of drafting national legislation to this effect, the Committee is concerned that the State party has not established a timeline for enactment of such legislation.
59. The Committee recommends that the State party take proactive measures to speedily enact legislation to require compulsory registration of all marriages, work with states and union territories to effectively implement such legislation and to consider withdrawing its reservation to article 16 (2).
60. The Committee encourages the State party to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.
61. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in, and to consult with non-governmental organizations during, the preparation of its next report. It encourages the State party to involve Parliament in a discussion of the report before its submission to the Committee.

62. The Committee urges the State party to utilize fully in its implementation of the obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.
63. The Committee also emphasizes that a full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and the explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.
64. The Committee notes that State's adherence to the seven major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of India to consider ratifying the treaty to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
65. The Committee requests the wide dissemination in India of the present concluding comments in order to make the people of India, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in that regard. It requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, the Optional Protocol thereto, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twentythird special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".
66. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. It invites the State party to submit its fourth periodic report, which was due in August 2006, and its fifth periodic report, which is due in August 2010, in a combined report in 2010. Request for a follow-up report
67. The Committee expresses its dissatisfaction with the lack of information provided by the State party in its report and in its answers to issues and questions posed by the Committee, on the impact of the Gujarat massacre on women, which negatively affected implementation of the Convention. While appreciating that some additional information on this issue was provided during the constructive dialogue and subsequently, the Committee did not find this information sufficient.

Optional Protocol:

Optional Protocol is a supplementary treaty that exists as an adjunct of a “mother” treaty. It is open to ratification by States that have already ratified the mother treaty. The Optional Protocol to CEDAW, if ratified by a state Party, provides two additional procedures for monitoring state obligation under the Convention by the committee—that of examining individual complaints and of instituting inquiries into grave and systematic violations. Essentially, the Optional Protocol expands the powers of the Committee beyond the periodic country review to investigate and examine communications and reports of violations. In doing so, the Optional Protocol provides individuals direct access to the committee.

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women

The States Parties to the present Protocol,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Also noting that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Recalling that the International Covenants on Human Rights and other international human rights instruments prohibit discrimination on the basis of sex,

Also recalling the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”), in which the States Parties thereto condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women,

Reaffirming their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms,

Have agreed as follows:

Article 1

A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Elimination of Discrimination against Women (“the Committee”) to receive and consider communications submitted in accordance with article 2.

Article 2

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted

on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 3

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 4

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.
2. The Committee shall declare a communication inadmissible where:
 - (a) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
 - (b) It is incompatible with the provisions of the Convention;
 - (c) It is manifestly ill-founded or not sufficiently substantiated;
 - (d) It is an abuse of the right to submit a communication;
 - (e) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 5

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

Article 6

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, and provided that the individual or individuals consent to the

disclosure of their identity to that State Party, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State Party concerned.

2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that State Party.

Article 7

1. The Committee shall consider communications received under the present Protocol in the light of all information made available to it by or on behalf of individuals or groups of individuals and by the State Party concerned, provided that this information is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications under the present Protocol.
3. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.
4. The State Party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.
5. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under article 18 of the Convention.

Article 8

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 9

1. The Committee may invite the State Party concerned to include in its report under article 18 of the Convention details of any measures taken in response to an inquiry conducted under article 8 of the present Protocol.
2. The Committee may, if necessary, after the end of the period of six months referred to in article 8.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 10

1. Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 8 and 9.
2. Any State Party having made a declaration in accordance with paragraph 1 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General.

Article 11

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Article 12

The Committee shall include in its annual report under article 21 of the Convention a summary of its activities under the present Protocol.

Article 13

Each State Party undertakes to make widely known and to give publicity to the Convention and the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular, on matters involving that State Party.

Article 14

The Committee shall develop its own rules of procedure to be followed when exercising the functions conferred on it by the present Protocol.

Article 15

1. The present Protocol shall be open for signature by any State that has signed, ratified or acceded to the Convention.
2. The present Protocol shall be subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 16

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 17

No reservations to the present Protocol shall be permitted.

Article 18

1. Any State Party may propose an amendment to the present Protocol and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify her or him whether they favour a conference of States Parties for the purpose of considering and voting on the proposal. In the event that at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 19

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 or any inquiry initiated under article 8 before the effective date of denunciation.

Article 20

The Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under the present Protocol;
- (b) The date of entry into force of the present Protocol and of any amendment under article 18;
- (c) Any denunciation under article 19.

Article 21

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 25 of the Convention.

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